

BOARD OF APPEALS CASE NO. 4654	*	BEFORE THE
APPLICANT: Blakefield Development LLC	*	ZONING HEARING EXAMINER
REQUEST: Special Development approval	*	OF HARFORD COUNTY
and variance to locate an Integrated		
Community Shopping Center;	*	
411-413 Pulaski Highway, Joppa		Hearing Advertised
	*	Aegis: 8/28/96 & 9/4/96
HEARING DATE: October 9, 1996		Record: 8/30/96 & 9/6/96
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ZONING HEARING EXAMINER'S DECISION

The Applicant is Blakefield Development LLC. The Applicant is requesting approval for an Integrated Community Shopping Center and a variance to the required front yard setback.

The subject parcel is located at 411-413 Pulaski Highway in the First Election District. The subject parcel is comprised of Parcel No. 100, 9 and 76 in Grid 3-F, on Tax Map 64. The parcel which is the subject of this hearing contains 2.5 acres, more or less, all of which is zoned B3 and is part of an Enterprise Zone.

The uncontradicted testimony introduced by the Applicant was that the property is located on Pulaski Highway, north of Joppa Farm Road, and was acquired in August 1985. The property is currently improved by a mobile home and a single-family dwelling and the property is part of an Enterprise Zone. The Applicant's proposal is to construct a two-story building containing 9,000 square feet on each floor, for a total of 18,000 square feet. The testimony indicated that due to topography on the parcel, the rear of the second floor will be at grade and that approval of a variance to reduce the 25 foot front yard setback to 13 feet would allow the building to be located forward and provide for the second floor rear entrance. The Applicant introduced testimony that denial of the variance would cause practical difficulty because the Applicant would be required to do substantial grading and the grading would also impact the Forest Conservation Area if the Applicant is required to locate the building further to the rear of the parcel.

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The evidence further indicates that the proposed parking meets all Code requirements and that the parcel is served by public water and sewer. The parcel slopes at an 8% upgrade and upon completion of the project, the impervious surfaces will be less than 80%.

The Applicant went on to introduce evidence that there are no churches, school or other public uses in the immediate vicinity of the subject parcel, that the parcel itself is zoned B3, and that there is CI zoned property in the area, as well as R3 to the rear of the parcel. The testimony from the Applicant's witnesses indicate that all Code requirements for an Integrated Community Shopping Center can be met except for the front setback and the testimony indicates that even though the Applicant is requesting a variance to reduce the setback to 13 feet, the parking area will be 46 feet from the paved area on U.S. Route 40.

The Applicant, through an expert witness, also introduced evidence that no dangerous traffic conditions would be caused as a result of approval of the Integrated Community Shopping Center and that the project will contain adequate parking when complete. The study also indicated that the existing road network with minor adjustments would handle the traffic generated by the proposal and that there is adequate site distance on U.S. Route 40.

No protestants appeared in opposition to the Applicant's request, and Mr. Anthony McClune, Chief of Current Planning for the Department of Planning and Zoning, appeared and testified that the Staff has reviewed the Applicant's proposal for the Integrated Community Shopping Center and variance to reduce the front yard setback to 13 feet. Mr. McClune said the Staff considered the "Limitations, Guides and Standards" as set forth in Section 267-9(I) of the Code, as well as the variance requirements set forth in Section 267-11. The Department felt that the Applicant could meet the requirements of the Code and, therefore, recommended approval of the shopping center and setback variance, subject to the conditions contained in the Staff Report.

CONCLUSION:

The Applicant is requesting Special Development approval for an Integrated Community Shopping Center, pursuant to Section 267-47(A), and a variance to Section 267-47(A)(5)(b) to the required 25 foot setback in a B3, General Business District.

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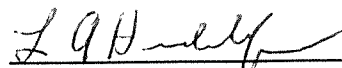
The evidence introduced by the Applicant and the expert witnesses called by the Applicant indicates that the Applicant can meet or exceed the requirements for approval of an Integrated Community Shopping Center, except for the required 25 foot setback set forth in Section 267-47(A)(5)(b). The evidence also indicates that the proposal can meet the requirements set forth in Section 267-9(I) pertaining to "Limitations, Guides and Standards".

The Applicant has requested a variance to the required 25 foot front yard setback and has introduced uncontradicted evidence that topographic conditions on the parcel, as well as the shape of the parcel, justify approval of a variance. The evidence indicates that approval of the variance would allow less site disturbance and would also protect the Forest Conservation area to the rear of the proposed building. Additionally, the evidence indicates that even though the Applicant is requesting reduction of the setback from 25 feet to 13 feet, there will be 46 feet between the pavement on U.S. Route 40 and the proposed parking area.

No evidence was introduced to indicate that approval of the variance would be substantially detrimental to adjacent properties or materially impair the purpose of the Code. Therefore, it is the recommendation of the Hearing Examiner that the Integrated Community Shopping Center be approved and that the variance to reduce the front yard setback from 25 feet to 13 feet be approved, subject to the following conditions:

1. A detailed site plan shall be submitted for review through the Development Advisory Committee. The site plan submitted to the County for approval shall generally conform to the Applicant's current site plan, labeled as "Attachment 8".
2. The Applicant shall landscape the area across the front of the property to buffer the parking area and screen the headlights of parked vehicles when facing U.S. Route 40. The landscaping and lighting plans shall be submitted for review and approval by the Department of Planning and Zoning.
3. Lighting shall be directed on site, away from traffic and/or surrounding residential uses.

Date OCTOBER 31, 1996



L. A. Hinderhofer
Zoning Hearing Examiner